

PLANNING COMMISSION MINUTES

October 2, 2007

7:00 P.M.

Present: Chairman Clark Jenkins, Vice-Chairman Tom Smith, Beth Holbrook, Dave Badham, Michael Allen, Ray Keller, City Council Representative Barbara Holt, City Attorney Russell Mahan, City Engineer Paul Rowland, Planning Director Aric Jensen, and Recording Secretary Connie Feil.

Clark Jenkins welcomed all those present. Mr. Jenkins also welcomed the Scouts and explained the duties of the Planning Commission and mentioned that if there were any questions during the meeting they could feel free to ask them.

Barbara Holt made a motion to approve the minutes for September 18, 2007 as amended. Dave Badham seconded the motion and voting was unanimous in favor.

1. Consider final subdivision approval for a one lot subdivision located at 1216 S. Lorien Drive, Ross Wolfley, applicant.

Ross Wolfley, applicant, was present. Paul Rowland explained that this proposed one lot subdivision is located on the north end of Lorien Court and also has frontage along Lorien Drive. The Planning Commission reviewed this proposal and granted preliminary subdivision approval on September 18th, with the exceptions and conditions listed, plus an additional condition that a cross-access driveway agreement between the property owner and the adjoining neighbor to the southeast be signed and recorded.

The applicant has submitted a final plat that staff has reviewed and redlined and returned to Dave Byrd for final revision. The drawing reviewed by the Planning Commission is the revised plat with the redline corrections.

Normally the applicant would have to pay a storm water impact fee on the entire subdivision acreage, however, staff has estimated that only about 2 acres will be disturbed while the remainder will remain in its natural state. Therefore, the recommendation is to charge the stormwater impact fee on just 2 acres.

Staff recommends that the Planning Commission send a favorable recommendation for final subdivision approval of the Stone Ridge Subdivision Plat J with the following exceptions and conditions:

EXCEPTIONS:

- a. Allow a house to be built up to 500 ft. from the street with the conditions below.
- b. Allow the access to the building pad to cross ground over 30% with the conditions

below.

- c. Allow the lot to be double fronting, with the primary frontage on Lorien Court and secondary frontage on Lorien Drive.

CONDITIONS:

1. A 6" fire line and fire hydrant be installed.
2. The home constructed on the lot be constructed with a full fire suppression/sprinkler system.
3. The driveway be constructed to the proper width per the Foothill Ordinance and have hydrant access and turn-around that meet the requirements of the Ordinance and the Fire Marshall.
4. A cross-access driveway agreement between the property owner and the adjoining neighbor to the southeast be signed and recorded.
5. Any other redline corrections be made.
6. All required fees and bonds be paid, with the storm water impact fee assessed on only 2 acres.

There was a brief discussion regarding an additional condition to require a re-vegetation plan. Tom Smith made a motion to recommend to the City Council final subdivision approval for a one lot subdivision located at 1216 S. Lorien Drive subject to the exceptions and conditions outlined by Staff with the addition of the following:

7. The applicant submit a re-vegetation plan for the driveway and cuts & fills over 10%.

Beth Holbrook seconded the motion and voting was unanimous in favor.

2. PUBLIC HEARING-Consider preliminary approval for Nelson Subdivision for a two lot subdivision located at 378 W. 1500 S., Chip Nelson, applicant.

Chip Nelson, applicant, was present. Paul Rowland explained that Mr. Nelson is requesting a lot split (2 lot) subdivision of the property located at 378 West 1500 South. The property currently contains a single family house fronting onto 1500 South with a large side yard to the east. Both proposed lots exceed the minimum area and frontage requirements for the R-4 zone. Lot 1, which has the existing house, has about 14,700 square ft. and 105.00 ft. of frontage, and Lot 2, the new lot, has about 13,300 square feet and 95.00 ft. of frontage. The total area of the subdivision is 0.643 acres.

This existing property is already a double fronting lot, with 1500 South in the front and a semi cul-de sac, 350 West, in the back. The property is separated from 350 West by a 6 foot tall masonry block wall and a small (about 2 ft. wide) landscape strip. This property has functioned as a double fronting lot for many decades so continuing to do so will not create some type of

unusual new problem. In reviewing the access to the property, Staff has discussed with the property owner the possibility of having a house face 1500 South with the driveway access from the rear on 350 West. This moves the drive access away from a busy 1500 South to seldom used 350 West, which is not a bad idea given the proximity to SR 68. If the owner requests a vehicular access onto 1500 South, it should be constructed in such a way that cars can drive forward onto the street without constructing a circular driveway. A circular driveway would place the east drive approach quite close to the intersection of SR 68 and 1500 South.

Utilities are available in the street and will need to be stubbed into the lot when a building permit is issued. There is already curb, gutter, and sidewalk along the 1500 South frontage. If any of these improvements are damaged, either now or when the new home is constructed, they will have to be repaired and brought up to standard. This will be covered by the bond that it is required with the issuance of a building permit.

The public hearing was opened for those with comments or concerns. The public hearing was closed without comment.

Mr. Rowland explained the following conditions and recommended that the Planning Commission send a favorable recommendation to the City Council for preliminary subdivision approval of the Nelson Subdivision with the following conditions:

1. Pay Storm Water Impact fee of \$1,350.30
2. Pay Checking and Recording fee of \$ 250.00
3. Allow double fronting lot with proposed lot 2 required to have driveway access only from the west side of the frontage and the driveway be constructed such that vehicles can drive forward onto the street without a circular drive.
4. Provide a current title report.

There was a brief discussion regarding a circular driveway versus a hammerhead type driveway, and the option of having an access from 350 West.

Michael Allen made a motion to recommend to the City Council preliminary approval for the Nelson Subdivision located at 378 W. 1500 S. subject to the conditions outlined by Staff and the following addition:

5. Require a hammerhead style driveway for access onto 1500 S. and allow the option for an access from 350 W. but not a drive through from 350 W. to 1500 S.

Barbara Holt seconded the motion and voting was unanimous in favor.

3. **PUBLIC HEARING-Consider a variance to allow building on a reduced front yard setback to 15' in a zone requiring a 20' setback located at 3654 S. Huntington Dr., Carl Rasmussen, applicant.**

Carl and Michelle Rasmussen, applicants, were present. Aric Jensen explained that Carl and Michelle Rasmussen are requesting a variance from the front yard setback requirements of the R-4 zone in order to construct a small foyer and covered porch on the front of a new home that they are proposing to build at 3654 S. Huntington Dr. The property is an approved and platted building lot, although it is extremely steep and would not qualify as a building lot under the current ordinances. The first 25 feet of this lot is essentially flat, and then it just about drops off at a continuous slope of more than 50%, which qualifies for the automatic 20 foot front yard setback because of the steep slope.

Mr. Jensen continued to explain that this is the last remaining unbuilt lot in the subdivision. The applicants are proposing a custom designed home that is only 19 feet deep in the living area, and 24 deep at the garage. The foyer and covered porch combined are about 10 feet deep by 10 feet wide, although the posts extend only about 8 feet from the front of the home. A typical new home, including the foyer, is at least 35 to 40 feet deep with a covered porch that is usually 5 to 10 feet deep.

The following is a conforming copy of Utah Code 10-9a-702, which outlines the duties of the appeal authority in relation to variances (underlining added to indicate necessary findings for approval):

10-9a-702. Variances.

- (1) Any person or entity desiring a waiver or modification of the requirements of a land use ordinance as applied to a parcel of property that he owns, leases, or in which he holds some other beneficial interest may apply to the applicable appeal authority for a variance from the terms of the ordinance.
- (2) (a) The appeal authority may grant a variance only if:
 - (i) literal enforcement of the ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the land use ordinances;
 - (ii) there are special circumstances attached to the property that do not generally apply to other properties in the same zone;
 - (iii) granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone;
 - (iv) the variance will not substantially affect the general plan and will not be contrary to the public interest; and
 - (v) the spirit of the land use ordinance is observed and substantial justice done.
- (b) (i) In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship under Subsection (2)(a), the appeal authority may not find an unreasonable hardship unless the alleged hardship:
 - (A) is located on or associated with the property for which the variance is sought; and
 - (B) comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood.
- (ii) In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship under Subsection (2)(a), the appeal authority may not

- find an unreasonable hardship if the hardship is self-imposed or economic.
- (c) In determining whether or not there are special circumstances attached to the property under Subsection (2)(a), the appeal authority may find that special circumstances exist only if the special circumstances:
- (i) relate to the hardship complained of; and
 - (ii) deprive the property of privileges granted to other properties in the same zone.
- (3) The applicant shall bear the burden of proving that all of the conditions justifying a variance have been met.
- (4) Variances run with the land.
- (5) The appeal authority may not grant a use variance.
- (6) In granting a variance, the appeal authority may impose additional requirements on the applicant that will:
- (a) mitigate any harmful affects of the variance; or
 - (b) serve the purpose of the standard or requirement that is waived or modified.

In regards to Section 10-9a-707 (2)(a)(i - v), Staff's opinion is that the petitioners have shown that they meet all of the necessary criteria such that the Commission may grant a variance. First, literal enforcement of the ordinance would create an unreasonable hardship that is not necessary to carry out the general purpose of the zoning ordinance, i.e., Due to the natural topography, the proposed home is extremely shallow, causing the foyer and covered porch to protrude into the front yard. Requiring that the applicants invert the foyer and covered entryway (porch) into a structure that is only 19 feet deep simply to meet the front yard setback requirement is an unnecessary hardship that could be prevented with a variance.

Second, there are special circumstances which apply to this property that do not apply to all other properties in the neighborhood; specifically, this lot has the shallowest building area and the steepest slope of any lot in this area, and is probably one of the top 10 most challenging lots within the City.

Third, the spirit of the Ordinance is upheld and substantial justice is done by allowing the applicant to make use of the limited buildable area on the property.

Fourth, this is not contrary to the general plan which calls for single family development and related accessory structures.

Fifth, in regards to Section 10-9a-707 (2)(b - c), the hardship is located on the property and is the result of circumstances peculiar to the property.

Sixth, a covered porch and foyer area are expected and necessary elements of a residential structure in our climate, and denying the right to build such would be tantamount to denying the petitioners of a privilege afforded to other property owners in the area.

Single family permits are normally reviewed and approved by the Bountiful City Building

Department, and so the Commission is not approving the actual permit or site plan, but only a variance or variances from certain provisions of the Zoning Ordinance based on the site plan submitted. The Planning Commission may vote to approve the request in its entirety, to approve the request with modifications, continue the item for further discussion, or to deny the request depending on its findings.

Staff recommends approval of the variance from the Land-Use Ordinance regarding front yard setback as shown on the proposed site plan, based on the findings listed in the staff report, and with the understanding that the front porch roof line extends approximately 10 feet from the front of the home, with the column footings at about 8 feet.

Carl Rasmussen explained that he and his wife are now looking at downsizing their home. The plan is to construct a home with a sub-basement and two levels which will fit the topography of the property.

The public hearing was opened for all those with comments and concerns. The public hearing was closed without comments.

Russell Mahan explained that if there is to be a motion to grant the variance, the variance should be granted to the extent shown on the revised plan showing the 13' setback on the pillars, and with the findings, from the recommendation by Staff, referring to the 6 elements required by State Law.

Barbara Holt made a motion to grant the variance to allow a 13' setback as shown on the revised site plan based on the findings discussed in the report shown that the applicant does meet the 6 elements required by State Law.

Beth Holbrook seconded the motion and voting was unanimous in favor.

4. Consider preliminary and final condominium site plan approval for 592 N. Main, Cameron Winquist, applicant.

Cameron Winquist, applicant, was present. Aric Jensen explained that Mr. Winquist is requesting a multi-family site plan approval for an existing 0.294 acre lot at 600 North Main Street. The property is currently zoned RM-13, however, the maximum density is 9 units per acre because it is less than 1 acre in size. About a year ago the address was changed to 592 North Main Street, as 600 North is reserved as a street designation.

This project came before the Planning Commission and City Council about 16 months ago and was granted final approval, however, the project was never built and the approval lapsed. The new applicant is proposing essentially the same project, but with an upgraded floor plan and exterior.

Mr. Jensen continued to explain that, as before, the proposal is to construct (2) 3 bedroom units and (1) 2 bedroom unit, which will require a minimum of 8 parking spaces, at least 3 of which must be covered. The proposed plan shows 5 covered spaces (garages) and 3 uncovered spaces. Approximately 45% of the site is shown in landscaping, however, a detailed landscaping plan was not provided. The Commission may continue this item until a landscaping plan is provided or may recommend approval with the condition that the applicant provide a completed landscaping plan.

The proposed structure will be two stories high with a basement. The applicant will construct the basement in the two bedroom unit as a family room.

The front setback is currently shown as 30', but the redlines show the building moved forward to the 25' setback in order to increase the space between the parking stalls and the side of Unit 3 to the minimum of 5', and to slightly increase the width of Unit 2.

The exterior will be a mixture of brick, siding, and architectural shingles. The ordinance requires that at least 50% of the facade be in brick or stone. The drawings show only a waist high wainscot of brick on the back and sides of the structure. This will have to be increased to at least one full story.

The lot is essentially flat, and so there is only minimum slope and drainage out to the street. The City Engineer may require that the structures be raised slightly to improve the driveway slope. Curb and gutter is required around the section of the driveway that will carry water, and only cement curbing (flat) is required around the area that will not carry water. This section of Main Street is a UDOT road, and UDOT has required that the driveway at this site line up with the driveway at Avalon across the street, which is why there is a jog in the driveway. UDOT has also required that the applicant provide some sort of stormwater detention system that ties into their existing storm drain system. This detention basin is not shown on the site plan, however, it will most likely consist of a catch basin located near the mouth of the driveway running to a detention basin in the front landscaping, that in turn will flow at a metered rate into the UDOT storm drain system. As getting UDOT approval might take some time, staff recommends approving this project with the condition that the applicant provide a storm water detention system to the satisfaction of UDOT and the City Engineer.

Staff recommends approval of the proposed multi-family site plan with the following conditions:

1. The applicant shall provide a complete landscape plan with the building permit.
2. Unit 2 shall be constructed with only 2 bedrooms and the basement shall be a family room.
3. The onsite storm water detention system shall be designed and constructed to the satisfaction of UDOT and the City Engineer.
4. At least 50 percent of the structure's facade shall be in brick or stone as required by ordinance.

5. All redline corrections shall be made, including changing the address to 592 North Main.

After a brief discussion Michael Allen made a motion to recommend to the City Council preliminary and final condominium site plan approval for 592 N. Main subject to the conditions outlined by Staff. Tom Smith seconded the motion and voting was unanimous in favor.

5. Planning Director's report.

Aric Jensen mentioned that in the near future Staff is going to schedule a training meeting for all new Planning Commissioners. Notification will be sent out to all Commissioners at that time.

Dave Badham asked that Staff and the Planning Commission revisit the new standards for circular driveways. He feels that the new ordinance will prevent any new circular driveways from being built. Mr. Jensen suggested presenting the issue before the Planning Commission some time in December when the agendas are light.

A representative for the Scouts had a question regarding what determined whether or not there is a public hearing. It was explained that State Law requires a public hearing be held for an amendment to an ordinance, a rezone, a new subdivision, or a request for a variance. All other issues are opened to the public but a public hearing is not required.

Mr. Jensen explained that the owners of Welcome Home Assisted Living were sent a letter in regards to complaints received that the landscaping and fencing had not been completed. Staff inspected the facility finding that the landscaping plans had been altered from the approved site plan. There were several items that had not been completed which included a section of fence, landscaping rocks were placed on the property line rather than a fence, the fence was placed next to the rocks which created about 15' wide space for the rocks, weeds and erosion, and a section of fence was removed to allow better circulation to the air conditioning units, which has increased the noise and irritated the neighbors.

Mr. Jensen continued to explain that there were other items not in compliance that now have been taken care of. The main issues are the two sections without fencing, and the rocks not landscaped with sprinklers and vegetation. The City gave the owners ample time to have these issues resolved and at this time it has not been completed. It has been more than a year since the site plan and a Conditional Use Permit was approved. The item before the Commission to determine if this violation warrants scheduling a public hearing to consider revoking their Conditional Use Permit.

A representative from Welcomed Home Assisted Living feels that what has been said is not accurate. He explained that during the construction process the general contractor was contacted by the City to resubmit plans for the rock wall, which was done and approved. After the rock wall was constructed it was decided to put a 4 foot fence at the top of the wall and the residents agreed with this change. Since the first part of September the landscaping and sprinkling system have been completed, and the fence will be completed within the next few days.

Paul Rowland explained that the changes to the grading were not approved by the City in advance. Regardless, the desired goal seems to have been met of bring the property into compliance. Mr. Jensen now can reinspect the facility and verify that the facility has complied with the requirements of the Conditional Use Permit.

Russell Mahan gave all Commission Members a memo regarding Regulatory Taking. Mr. Mahan explained that the Commission needs to be aware of this law because, in the future, this may apply to some applications coming before the Planning Commission.

Meeting adjourned at 8:15 P.M.